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1 – EPA testing shows air near stump dump 'unhealthy', Arkansas Democrat-Gazette, 12/13/18

<https://www.arkansasonline.com/news/2018/dec/13/epa-testing-shows-air-near-stump-dump-u/?news-arkansas>

The Arkansas Department of Health said Wednesday preliminary results of monitoring near a stump dump fire show air quality in the "unhealthy" category, according to a news release.

2 – Arkansas Department of Health issues health alert regarding Bella Vista stump dump, KHBS, 12/13/18

<https://www.4029tv.com/article/arkansas-department-of-health-issues-health-alert-regarding-bella-vista-stump-dump/25564292>

The Arkansas Department of Health has issued a health alert regarding the Trafalgar Road Fire in Bella Vista. The ADH says today it learned of preliminary results of particulate matter (PM) monitoring conducted by the Environmental Protection Agency (EPA) of air in the half mile radius around the 8000 block of Trafalgar Road in Bella Vista.

3 – EPA, Corps release revised WOTUS rule, KNWA, 12/12/18

<https://www.nwahomepage.com/news/epa-air-around-stump-dump-fire-unhealthy/1656035108>

Air within a half mile radius of the Trafalgar Road fire in Bella Vista, previously referred to as "stump dump," has been found to be unhealthy, according to the Environmental Protection Agency.

4 – The Oil Industry's Covert Campaign to Rewrite American Car Emissions Rules, The New York Times, 12/13/18

<https://www.nytimes.com/2018/12/13/climate/cafe-emissions-rollback-oil-industry.html>

When the Trump administration laid out a plan this year that would eventually allow cars to emit more pollution, automakers, the obvious winners from the proposal, balked. The changes, they said, went too far even for them. But it turns out that there was a hidden beneficiary of the plan that was pushing for the changes all along: the nation's oil industry.

5 – Galveston residents weigh in on hurricane levee proposal that some call "a really bad, bad plan", Texas Tribune, 12/12/18

<https://www.texastribune.org/2018/12/12/galveston-weighs-hurricane-levee-proposal-texas-coast-army-corps/>

The U.S. Army Corps of Engineers and the Texas General Land Office proposed a massive levee system for the Houston area in late October that would cost as much as \$20 billion. It's part of a larger plan to protect the state's coastline from hurricane storm surge.

6 – State begins coast-wide effort to sustain fisheries hit by wetland erosion, restoration projects, New Orleans Times-Picayune, 12/12/18

<https://www.nola.com/environment/2018/12/state-begins-coast-wide-effort-to-sustain-fisheries-hit-by-wetland-erosion-restoration-projects.html>

State officials have embarked on a coast-wide effort to partner with the commercial and recreational fishing industry to find ways to make fishing more sustainable in the future, even as some state projects aimed at restoring coastal wetlands and land threaten fisheries and fishers.

7 – Wheeler preaches federalism on water, not cars, E&E News, 12/13/18

<https://www.eenews.net/climatewire/stories/1060109495>

When EPA announced its overhaul of a major water rule this week, it leaned heavily on the idea that it was promoting states' rights. Critics say that other actions by the Trump administration could reduce states' freedom to address climate change.

8 – EPA advisory panel gets earful at public hearing, E&E News, 12/12/18

<https://www.eenews.net/eenewspm/2018/12/12/stories/1060109489>

An embattled EPA advisory committee held a public hearing in Washington today, with members getting two broad strains of feedback. The first came from industry representatives who repeatedly questioned whether a draft EPA research roundup overstates the health risks posed by airborne particulates.

9 – LCRA changes tack in Bastrop County groundwater permit request, Austin American-Statesman, 12/12/18

<https://www.statesman.com/news/20181213/lcra-changes-tack-in-bastrop-county-groundwater-permit-request>

The controversy over Bastrop County groundwater pumping was at the center of discussions Wednesday morning between Lower Colorado River Authority executives and the Sunset Advisory Commission.

10 – Lawsuit targets USDA's waiver; it claims 'factory farms' given pass, Arkansas Democrat-Gazette, 12/13/18

<https://www.arkansasonline.com/news/2018/dec/13/lawsuit-targets-usda-s-waiver-20181213/>

A group from Harrison is among the activists suing the U.S. Department of Agriculture over a 2016 exemption rule that allows "medium-sized" feedlots and poultry farms, which can hold tens of thousands of animals, to sidestep the risk analysis process required of "large" operations.

11 – House Panel Examines Draft Legislation for Ethanol Mandates, Transport Topics, 12/12/18

<https://www.ttnews.com/articles/house-panel-examines-draft-legislation-ethanol-mandates>

With the current session of Congress quickly coming to a close, the top policymaker on environmental issues in the U.S. House made sure new draft legislation on ethanol mandates he co-authored would see the light of day.

12 – 'Our winters are getting sick', E&E News, 12/13/18

<https://www.eenews.net/climatewire/stories/1060109497>

Snowpack in the western United States has declined by an area the size of South Carolina. Those are the newest findings in a long string of research documenting dramatic snow losses and shorter snow seasons in America's iconic mountain ranges.



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EPA testing shows air near stump dump 'unhealthy'

by Mike Jones | Today at 1:06 a.m.



COMMENTS

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File Photo/NWA Democrat-Gazette/BEN GOFF Smoke rises Aug. 2 from an underground fire at the former 'stump dump' site on Trafalgar Road in Bella Vista.

BELLA VISTA -- The Arkansas Department of Health said Wednesday preliminary results of monitoring near a stump dump fire show air quality in the "unhealthy" category, according to a news release.

The testing, called particulate matter monitoring, measures the amount of solid and liquid droplets found in the air such as ash, dust, and smoke. The amount of particulate matter in the air provides a snapshot of local air quality and how air quality may affect health, an Arkansas Department of Health news release stated.

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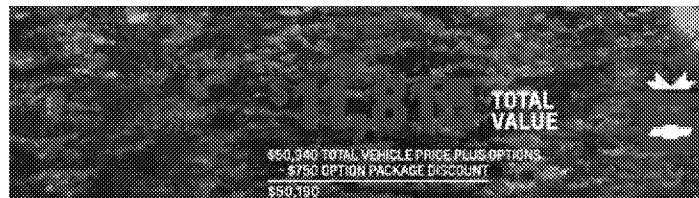
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Whenever it is possible, sensitive individuals should consider spending less time in the area when they can see smoke in the air. When smoke or strong odors are present, people in the area may protect themselves by taking the following actions:

- If it looks smoky outside, it's a good idea to limit exertion (running, yardwork, playing) during outside activity.



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- Run your heating, ventilation and air conditioning system and keep your air filter clean.
- If you have asthma or other lung diseases, you should follow your doctor's directions or asthma management plan.

- If you have heart or lung disease, if you are an older adult, or if you have a child, talk with your doctor about whether or when you should leave the area.

Source: Arkansas Department of Health

Everyone within a half-mile radius of the 8000 block of Trafalgar Road should avoid prolonged or heavy exertion outdoors, the release stated.

Mayor Peter Christie didn't return a phone call seeking comment early Wednesday evening.

The federal Environmental Protection Agency did more testing in an area along Trafalgar Road on Monday. The underground fire is on a site where the Bella Vista Property Owners Association operated a stump dump for about 13 years. Fire Department personnel have said the fire may be burning more than 50 or 60 feet underground.

The EPA continued air monitoring near Trafalgar Road fire this week. Once data is collected and validated, the EPA will share the information with the Arkansas Department of Health, according to the release.

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More testing planned for Bella Vista stump dump site

Tests show elevated level of benzene at Bella Vista stump dump fire

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Residents are also tracking air quality near Trafalgar Road using a system called PurpleAir. The health department said in the release resident-collected data can help support the EPA findings.

Fire Chief Steve Sims previously said firefighters were initially dispatched to the area July 29, where they spotted smoke and what appeared to be the remains of a brush fire. The property is owned by Brown's Tree Care.

There were no controlled burns listed in the dispatch log, he said, and the property owner denies burning brush.

The EPA collected 24-hour air samples from five locations around the tree care property Oct. 1 and Nov. 10. The agency tested for hundreds of chemicals associated with landfill fires potentially containing construction debris, household waste or tires. None of the air samples showed elevated concentrations of chemicals of concern in the community, an EPA news release stated.

The EPA also collected samples from a location on the tree care property and found a low level of benzene Nov. 10, according to the EPA release. The American Cancer Society says benzene is a colorless, flammable liquid with a sweet odor and it evaporates quickly when exposed to air. The chemical is a natural part of crude oil and gasoline, as well as detergents, drugs and pesticides.

Stuart Spencer, associate director of the office of air quality at the Arkansas Department of Environmental Quality, told residents at Dec. 1 meeting the presence of benzene suggests there's trash in the former dump and not just yard waste.

The EPA agreed to provide scientific expertise to assist the state Department of Environmental Quality in determining which benzene-sensing technology is available if needed, the EPA release stated.

Curtis and Tiffany Macomber, who live near the dump site, sued Brown's Tree Care and John Does 1-3 in connection with the fire. The lawsuit was filed in Benton County Circuit Court. It claims continued smoke from the site has created a hazardous situation for the Macomers and their children. The case is assigned to Benton County Circuit Judge Xollie Duncan. Brown Tree Service hasn't filed a response to the lawsuit.

NW News on 12/13/2018

Print Headline: EPA testing shows air near stump dump 'unhealthy'

Topics

[Environmental Protection Agency](#), [Arkansas Department of Health](#), [Trafalgar road](#), [Arkansas Department of Environmental Quality](#), [Benton County Circuit Court](#), [Brown Tree Service](#), [Stuart Spencer](#), [Brown](#), [American Cancer Society](#), [Xollie Duncan](#), [Peter Christie](#), [Tiffany Macomber](#), [NW News](#), [Steve Sims](#)

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Arkansas Department of Health issues health alert regarding Bella Vista stump dump

Arkansas Department of Health issues health alert regarding Bella Vista stump
dump



Updated: 10:51 PM CST Dec 12, 2018

BELLA VISTA, Ark. — The Arkansas Department of Health has issued a health alert regarding the Trafalgar Road Fire in Bella Vista.

The ADH says today it learned of preliminary results of particulate matter (PM) monitoring conducted by the Environmental Protection Agency (EPA) of air in the half mile radius around the 8000 block of Trafalgar Road in Bella Vista. The agency says one of these readings has shown that air quality for the particle pollution is in the "Unhealthy" category.

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EPA: Air Around 'Stump Dump' Fire Unhealthy

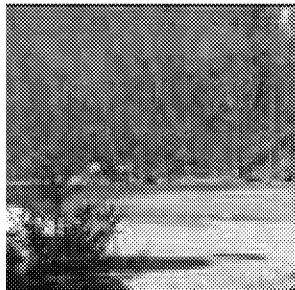
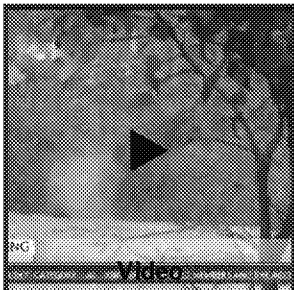
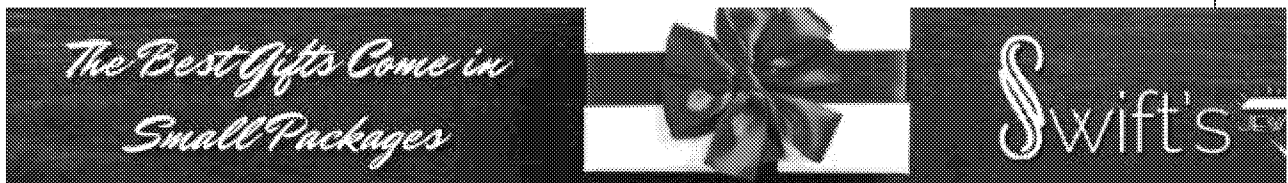
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Updated: Dec 12, 2018 10:29 PM CST

(Interactive Media Not Supported by Print)



BELLA VISTA, Ark. (KNWA) - Air within a half mile radius of the Trafalgar Road fire in Bella Vista, previously

referred to as "stump dump," has been found to be unhealthy, according to the Environmental Protection Agency.

The Arkansas Department of Health issued a news release Wednesday stating that the EPA monitored particulate matter of air in the half mile radius around the 8000 block of Trafalgar Road in Bella Vista.

"One of those readings has shown that air quality for partide pollution is in the 'Unhealthy' category," the news release states.

Department of Health officials caution that everyone within a half mile radius of the 8000 block of Trafalgar Road should avoid prolonged or heavy exertion outdoors. The news release lists examples of heavy exertion as running, playing or yardwork.

ADH stresses that the following types of people could be more sensitive to the particulate matter in the air around Trafalgar Road: those who suffer from breathing issues or lung diseases [such as asthma or chronic obstructive pulmonary disorder]; those with heart disease; pregnant women; infants and young children; teenagers; and older adults.

[Click here](#) for a live interactive map showing air quality.

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The Oil Industry's Covert Campaign to Rewrite American Car Emissions Rules



By Hiroko Tabuchi

Dec. 13, 2018

*Want climate news in your inbox? Sign up here for **Climate Fwd.**, our email newsletter.*

When the Trump administration laid out a plan this year that would eventually allow cars to emit more pollution, automakers, the obvious winners from the proposal, balked. The changes, they said, went too far even for them.

But it turns out that there was a hidden beneficiary of the plan that was pushing for the changes all along: the nation's oil industry.

In Congress, on Facebook and in statehouses nationwide, Marathon Petroleum, the country's largest refiner, worked with powerful oil-industry groups and a conservative policy network financed by the billionaire industrialist Charles G. Koch to run a stealth campaign to roll back car emissions standards, a New York Times investigation has found.

The campaign's main argument for significantly easing fuel efficiency standards — that the United States is so awash in oil it no longer needs to worry about energy conservation — clashed with decades of federal energy and environmental policy.

"With oil scarcity no longer a concern," Americans should be given a "choice in vehicles that best fit their needs," read a draft of a letter that Marathon helped to circulate to members of Congress over the summer. Official correspondence later sent to regulators by more than a dozen lawmakers included phrases or sentences from the industry talking points, and the Trump administration's proposed rules incorporate similar logic.

The industry had reason to urge the rollback of higher fuel efficiency standards proposed by former President Barack Obama. A quarter of the world's oil is used to power cars, and less-thirsty vehicles mean lower gasoline sales.

In recent months, Marathon Petroleum also teamed up with a secretive policy group within the Koch network, the American Legislative Exchange Council, to draft legislation for states supporting the industry's position. Its proposed resolution, dated Sept. 18, describes current fuel-efficiency rules as "a relic of a disproven narrative of resource scarcity" and says "unelected bureaucrats" shouldn't dictate the cars Americans drive.

A separate industry campaign on Facebook, covertly run by an oil-industry lobby representing Exxon Mobil, Chevron, Phillips 66 and other oil giants, urged people to write to regulators to support the rollback.

The Facebook ads linked to a website with a picture of a grinning Mr. Obama. It asked, “Would YOU buy a used car from this man?” The site appears to have been so effective that a quarter of the 12,000 public comments received by the Department of Transportation can be traced to the petition, according to a Times analysis.

Gary R. Heminger, Marathon’s chairman and chief executive, said in a statement that the company supported “sound fuel economy standards” and wanted to “help ensure they are achievable and based on existing technology.”

He added, “We appreciate the administration’s willingness to conduct a thorough review in order to ensure future standards are achievable and will actually benefit American consumers.”



Marathon’s chief executive, Gary Heminger, third from right, at the New York Stock Exchange on Dec. 3 to note an acquisition that made the company the nation’s largest refiner. Richard Drew/Associated Press

A spokesman for Koch Industries, the energy conglomerate led by Mr. Koch, said the company had “a long, consistent track record of opposing all forms of corporate welfare, including all subsidies, mandates and other handouts that rig the system.”

The oil industry's campaign, the details of which have not been previously reported, illuminates why the rollbacks have gone further than the more modest changes automakers originally lobbied for.

The standards that the Trump administration seeks to weaken required automakers to roughly double the fuel economy of new cars, SUVs and pickup trucks by 2025. Instead, the Trump plan would freeze the standards at 2020 levels. Carmakers, for their part, had sought more flexibility in meeting the original 2025 standards, not a categorical rollback.

The Trump plan, if finalized, would increase greenhouse gas emissions in the United States by more than the amount many midsize countries put out in a year and reverse a major effort by the Obama administration to fight climate change.

The energy industry's efforts also help explain the Trump administration's confrontational stance toward California, which, under federal law, has a unique authority to write its own clean-air rules and to mandate more zero-emissions vehicles.

California has pledged to stick to the stricter standards, together with 13 other states that follow its lead. But President Trump's plan challenges California's rule-writing power, setting up a legal battle that threatens to split the American auto market in two.

That is a prospect automakers desperately want to avoid.

But for gasoline producers like Marathon, a shift toward more efficient vehicles poses a grave threat to the bottom line. In October, the company acquired a rival, Andeavor, making it the biggest refiner in the United States, with sales of 16 billion gallons of fuel a year.

Even while doubling down on gasoline, Marathon has projected an environmentally friendly public image. "We have invested billions of dollars to make our operations more energy efficient," Marathon said in a recent report. The company's Twitter account recently highlighted a gardening project and the creation of a duck pond at one of its refineries.

On a conference call with investors last week, Mr. Heminger, the Marathon chief executive, was already counting the extra barrels of fuel a Trump rollback would mean for the industry: 350,000 to 400,000 barrels of gasoline per day, he said.

"However, you have another side who doesn't want to pivot away" from the stricter rules, Mr. Heminger said. "So we have a lot of work to do to keep this momentum going."

Marathon's Early Start

A Marathon Petroleum refinery in Detroit. Erin Kirkland for The New York Times

Marathon began its outreach to the Trump administration early, asking to meet with Scott Pruitt at the Environmental Protection Agency soon after he became its administrator in early 2017. Marathon had been a top donor to Mr. Pruitt in Oklahoma, a state where oil is so prominent that a well stands on the grounds of the capitol building.

“Our CEO, Gary Heminger, would be very glad for an opportunity to visit with the Administrator,” a Marathon lobbyist wrote in an email to Mr. Trump’s transition team on May 8, 2017. “I believe this would be a constructive dialogue.” The E.P.A. helps oversee fuel economy rules along with the Transportation Department.

COMMENT OF THE MOMENT

C **Christy**
WA | 29m ago

Times Pick

Another example of having the worst government money can buy. Big oil spent \$31 million to defeat a carbon fee in my state and who knows how much bribing Trump and his cronies on this auto emissions measure. The only legacy of this administration besides government by misspelled tweet is dirty air, dirty water and the fouling of our national parks, wildlife refuges and wetlands with oil exploration. Why? Because Trump has put a very large "For Sale" sign outside the White House and openly brags that he doesn't care what it does to our planet because he won't be around to clean it up.

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Mr. Pruitt was scheduled to meet with the Marathon chief at least twice — once in June 2017 as part of a meeting with the board of a powerful fuel-industry group, American Fuel and Petrochemical Manufacturers, and again in September for a more private talk, according to emails and schedules released in a lawsuit filed by the Sierra Club.

A Marathon spokesman, Chuck Rice, said Mr. Heminger did not discuss auto-efficiency rollbacks with Mr. Pruitt. An E.P.A. official did not respond to a question about whether the auto rules were discussed.

Marathon then turned its focus to Congress, hiring the firm Ogilvy Government Relations to lobby legislators in Washington on fuel-economy standards, according to Ogilvy's disclosure forms. The firm did not respond to a request for comment.

Over the summer, Marathon representatives also approached legislators about an industry talking-points letter, according to six people familiar with that effort. The file properties of a Microsoft Word version of one letter, provided by a Congressional delegation, show that it was last edited by a Marathon lobbyist, Michael J. Birsic, on June 11, 2018.

Mr. Rice of Marathon said the company did not write the letter, and the company declined to say who did. It did not offer an explanation for Mr. Birsic's digital fingerprint on the document file.

Nineteen lawmakers from the delegations of Indiana, West Virginia and Pennsylvania sent letters to the Transportation Department that included exact phrases and reasoning from the industry letter. The lawmakers' letters, sent in June and July, all make the point that oil scarcity is no longer a concern.

A portion of a letter detailing pro-industry talking points that was later echoed in letters written by lawmakers to regulators, such as the example below.

A letter sent by Pennsylvania's congressional delegation to regulators used language similar to the industry talking-points note, excerpted above.

The Trump administration's proposed rollback echoes the post-conservation theme. While energy conservation is significant, the proposal says, the downside of additional petroleum consumption would be dwarfed by the rollback's benefits.

Representatives from the three state delegations either declined to comment or did not respond to requests.

Senator Tom Carper of Delaware, the top Democrat on the Senate Environment and Public Works Committee, criticized the industry's campaign. "It appears as though oil interests are cynically trying to gin up support in Congress for the weakest possible standards to ensure that cars and SUVs have to rely on even more oil," he said.

"If this attempt is successful, the outcome will be a blow to the auto industry, consumers, and our environment."

The Facebook Campaign

The Facebook ads, featuring Mr. Trump waving alongside the message, "SUPPORT OUR PRESIDENT'S CAR FREEDOM AGENDA!," appeared the week after the administration made public its fuel economy plan in August. At least 10 times during the two-month public comment period on the plan, the ads, which did not state their oil industry origins, asked people to write to the government to back weaker emissions standards.

Public comments matter in federal rule-making. The law requires that citizens' views be taken into account before a rule is finalized.

“File an official comment to SUPPORT our President’s plan for safer, cheaper cars that WE get to choose,” read one ad, which ran for seven days in early October. The ad leads to a page that provides basic language to submit.

Facebook ads by Energy4Us prompted more than 3,300 of the 12,000 public comments on the administration’s rollback proposal, a Times analysis showed.

More than 3,300 of the 12,000 public comments that D.O.T. has made public contain language identical to that petition, an analysis of the files showed.

The campaign was a product of the fuel and petrochemical manufacturers trade group, widely known as AFPM. However, neither the Facebook ads nor the site identified the industry group. Instead they name a group called Energy4US, which describes itself as “a coalition of consumers, businesses and workers” promoting affordable energy.

Energy4US has close ties to the industry group. According to internet domain records, Victor Adams, listed as an AFPM web manager, registered Energy4Us.org in 2015 using his work email address. Energy4US lists the group as a coalition member, along with about 50 other groups including energy interests, labor groups, a sheriff’s association and even a recreational fishing alliance.

The AFPM board includes representatives from Exxon, Chevron, Phillips 66, Marathon and Koch Industries. The companies all referred queries to the group.

Derrick Morgan, a senior vice president at AFPM, said the group “regularly works with policymakers, coalition groups and individuals to promote shared goals,” and also will “lead and join groups like Energy4US.”

The Department of Transportation said it was “generally aware” that there were groups urging the public to make comments through online campaigns, but said it does not regulate them.

Transportation Secretary Elaine Chao at the White House this year. Tom Brenner/The New York Times

Taking the Fight On the Road

House bill 1593 is just eight words long: “To repeal the corporate average fuel economy standards.” Koch Industries, a petroleum empire with interests as diverse as gasoline, pipelines, fertilizer and Stainmaster carpets, is the bill’s sole corporate backer.

The measure, which would eliminate fuel standards altogether, is not expected to go far. But it underscores the company’s stance on the matter. And Koch interests are fighting that battle not only in Washington but increasingly in statehouses and even local policy meetings nationwide.

In Dearborn, Mich., at a September meeting on the Trump fuel-efficiency rollbacks, Annie Patnaude of Americans for Prosperity, a Koch-funded group, spoke in favor. “This is a step in the right direction to protect consumers and workers against government mandates that would limit choice,” she said.

In Iowa, Americans for Prosperity joined the fight over whether to make it easier for gas stations to install chargers for electric vehicles. In Illinois, it discouraged state officials from considering subsidies for electric vehicles.

And last month an Americans for Prosperity representative trekked to a public hearing in Colorado, where regulators were thinking about becoming the 13th state to follow California's stricter standards. The representative, Shari Shiffer-Krieger, a field director for the group, argued that people in the rugged state wanted SUVs, not tighter emissions rules. "Coloradans deserve much better," she said.

The oil industry lost that fight. Colorado allied itself with California.

But Americans for Prosperity said fights like these get to the heart of its free-market philosophy. "We believe in a level playing field so all Americans have the equal opportunity to succeed," said Bill Riggs, a spokesman for the group, in a statement. The organization will keep fighting "mandates that unfairly pick winners and losers in any industry," he said.

Drafting Pro-Oil State Legislation

On August 6, a Marathon lobbyist, Stephen D. Higley, emailed a Wisconsin state representative an explainer of American fuel economy law. The memo didn't mince words.

"It's a relic," the memo said, particularly at a time when the United States was "poised to become the largest oil producer in the world."

The Wisconsin representative, Mike Kuglitsch, participates in the American Legislative Exchange Council, a Koch-funded group that helps companies write model legislation for state lawmakers to use as a basis for their own laws.

Emails obtained by the Times show that Marathon has been working with members of the legislative exchange council to build support for the Trump fuel-efficiency rollback in state legislatures and to denounce California's power to write its own rules for cars. The emails were made public under Wisconsin's open records law to Documented, a watchdog group that tracks corporate influence in public policy.

California's special authority could effectively split the American auto market in two, since 13 other states — representing roughly 35 percent of nationwide car sales — have agreed to follow California's stricter rules. That means automakers might find themselves making cars to two competing standards.

"Who should decide what cars and trucks consumers should buy, consumers themselves or unelected bureaucrats in Sacramento, California or Washington, D.C.?" the memo sent by Marathon said.

In a statement, Bill Meierling of the legislative exchange council said that mandating fuel economy was a rule that “many state legislators believe doesn’t make sense for working Americans.”

Just days after the emails between Marathon and the Wisconsin lawmaker, some 1,500 state legislators and other officials from across the country gathered in New Orleans to cheer on Elaine Chao, the Secretary of Transportation, at the legislative exchange council’s annual convention. Marathon sponsored the event.

The Transportation Department was determined to cut government regulations, said Ms. Chao, a former fellow at the Heritage Foundation, which has received Koch funding and has long opposed the fuel economy rules.

Mr. Trump’s proposed rollback, she said, “ranks as one of the most significant regulatory reforms that this administration is undertaking.” The room erupted in applause.



Galveston residents weigh in on hurricane levee proposal that some call "a really bad, bad plan"

The U.S. Army Corps of Engineers and the Texas General Land Office proposed a massive levee system for the Houston area in late October that would cost as much as \$20 billion. It's part of a larger plan to protect the state's coastline from hurricane storm surge.

BY KIAH COLLIER DEC. 12, 2018 11 HOURS AGO



Lauri Mathias addresses officials from the U.S. Army Corps of Engineers and the Texas General Land Office on Wednesday in Galveston. Michael Stravato for The Texas Tribune

In Harvey's Wake

The devastation was swift, and the recovery is far from over. [Sign up](#) for our ongoing coverage of Hurricane Harvey's aftermath. You can help by [sharing your story here](#) or sending a tip to harvey@texastribune.org. [MORE IN THIS SERIES](#) →

GALVESTON — Lauri and Scott Mathias were preparing to break ground on their retirement home just blocks away from the beach when they heard the news: The government had proposed building a massive levee a few blocks behind their property. That would leave their future home on the coastal side of the structure — and unprotected during hurricanes.

The couple bought land on the sparsely populated Bolivar Peninsula two years ago after they became smitten with the close-knit community. They hoped to build a house there by next summer.

Now, they've put things on hold while they figure out what exactly the levee plan entails.

The couple was among a few hundred people — residents, business owners, members of conservation and environmental groups, local and state elected officials — who showed up Wednesday night at the convention center on this perpetually storm-battered barrier island to weigh in on a multi-billion-dollar government proposal to build a so-called "coastal barrier system." The U.S. Army Corps of Engineers and Texas General Land Office want to construct a sweeping complex of levees, flood walls, gates and pump stations along dozens of miles of Texas coastline.

The overwhelming sentiment was that the barrier system — intended to protect the low-lying Houston-Galveston region and the nation's largest petrochemical complex from deadly hurricane storm surge — was a miss. But the level of concern varied.

Some, especially Bolivar residents, said they didn't want anything to be built at all. Some said they accepted the risk when they chose to live there and didn't need the government to bail them out. Others said they liked the general concept and that some form of protection is needed — but that the placement was all wrong. Mayes Middleton, a Galveston Republican elected to the Texas House last month, garnered applause with his vocal criticism of the proposal, which was unveiled in late October.

“This is a really bad, bad plan right now,” he told a row of Army Corps and Land Office officials seated at the front of a large convention ballroom.

The barrier system is part of a larger plan that is estimated cost as much as \$32 billion and will include the restoration of dunes and marshes on the lower Texas coast. Agencies estimate the barrier system alone will cost as much as \$20 billion — a price tag many balked at Wednesday night, noting it didn't even account for maintenance.

Yet the plan has been years in the making.

Ever since Hurricane Ike nearly hit Houston head on in 2008, storm researchers have actively urged elected officials to build some kind of coastal barrier to protect life, property, the environment — and a quarter of the nation's petroleum refining capacity. If Ike, the costliest storm in the state's history at

the time, had hit just a little farther down the coast, sophisticated storm models show it would've sent an even more devastating swell of water into the heavily populated and industrialized Galveston Bay area.

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It also would have inundated the Houston Ship Channel — one of the world's busiest shipping lanes. The surge could've dislodged thousands of crude and chemical storage tanks in the area, resulting in a devastating environmental disaster. Gas prices, which spiked significantly as it was, could've blown through the roof across the country.

Researchers at Texas A&M University at Galveston and Rice University put forth other proposals years ago, as has a quasi-governmental agency called The Gulf Coast Community Protection and Recovery District.

One concept that emerged as a favorite and won support from high-ranking elected officials calls for installing some kind of levee or seawall along Galveston and Bolivar, and placing a gate between the two landmasses that could be shut ahead of storms. That concept first emerged in a plan out of A&M Galveston that was dubbed "the Ike Dike." A later plan was named "the coastal spine."

But Army Corps officials attempted to distance the agency from those ideas Wednesday night and stressed that their proposed placement was highly tentative.

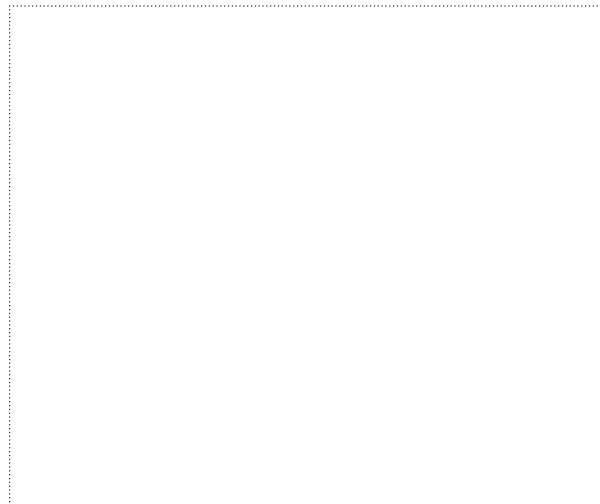
"What you're learning about tonight is not the Ike Dike, it's not the coastal spine," said Kelly Burks-Copes, a project manager at the Army Corps' Galveston District.

Stationed in front of informational poster boards, Burks-Copes and other government officials repeatedly described the placement of the levees as “conceptual” and subject to change.

That didn’t do much to appease the Mathiases who told Burks-Copes they feared their future home would turn into a “washing machine” when a storm hit the proposed barrier behind their home and retreated back toward the coast. Burks-Copes told them that if the final plan endangers properties in any way, the Army Corps would be required to mitigate the impacts by paying for property owners to raise their homes or to buy them out.

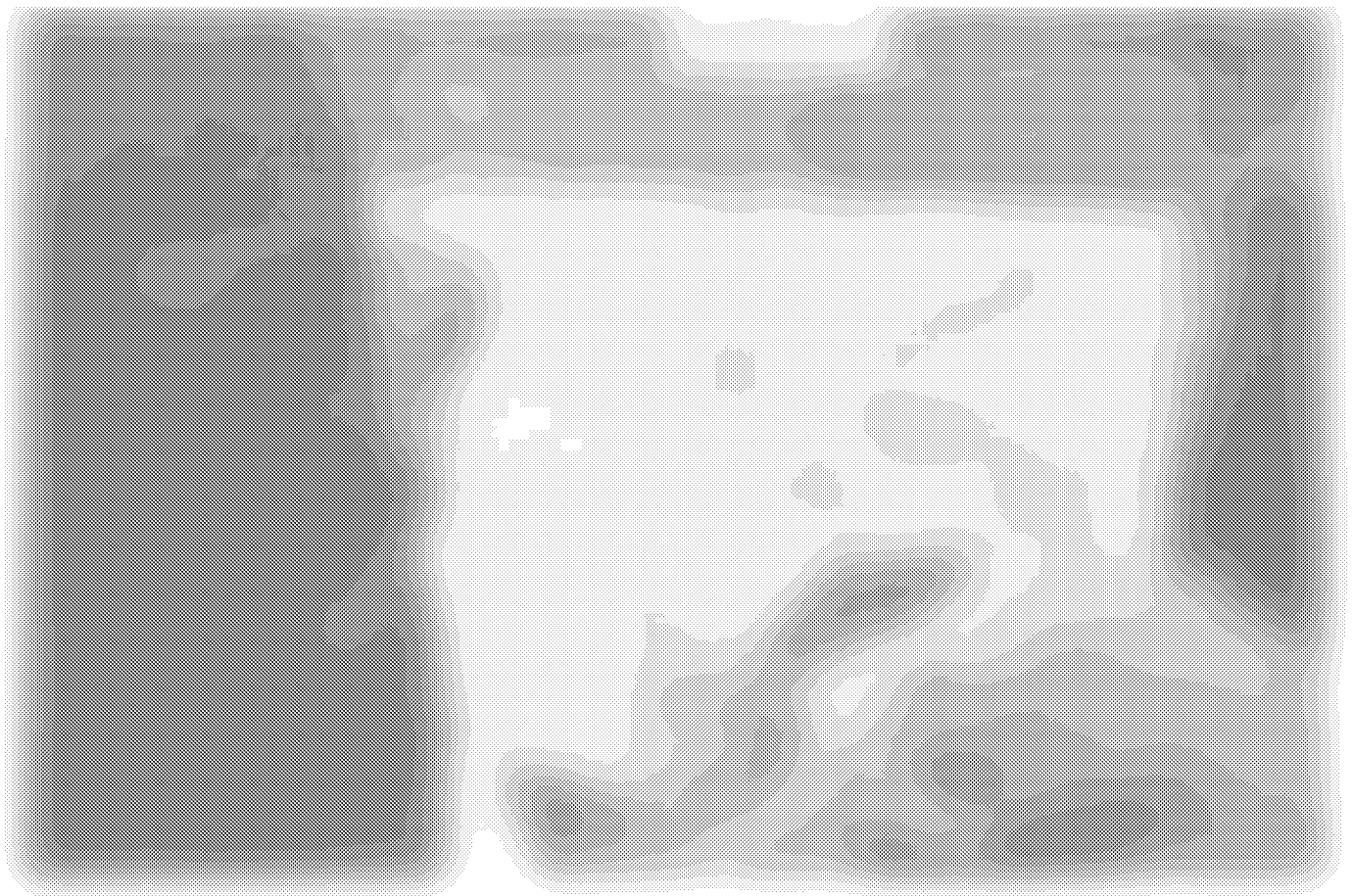
Many residents interviewed Wednesday said they feared the impact to their property values — and their ocean views. Lauri Mathias said she had already seen more homes for sale on Bolivar, which she attributed to panic over the levee plan.

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The plan “could change dramatically” based on public input and further study, Burks-Copes said in an interview, noting that now is the time to weigh in. The deadline to submit comments on the plan is Jan. 9. But of the four plans the Army Corps considered recommending, Burks-Copes said this one had the best cost-benefit — a key component of the agency’s methodical study process.

Much of the concern expressed Wednesday appeared to be generated by the many lingering unknowns — where exactly the levees would go, for example, and what they would look like. They could be a mix of sand-covered dunes and berms that may be topped with parks and jogging trails, or they could be vertical concrete seawalls that would inevitably block ocean views, Burks-Copes said.



People discuss a map of a coastal barrier system at an Army Corp of Engineers meeting about the Texas Coastal Study on Wednesday in Galveston. 📷 Michael Stravato for The Texas Tribune

In a summary of its written comments on the plan sent out Tuesday, a coalition of more than a dozen environmental and conservation groups complained that the accompanying environmental impact assessment “is insufficient to enable thorough and informed comments.” They also cast doubt on the accuracy of the agencies’ ecosystem modeling and said they didn’t thoroughly describe impacts to commercial and recreational fisheries and wildlife habitat.

Such specifics will be figured out later, when the Army Corps moves on to the next phase of the largest study it’s ever undertaken in its more than 200-year history.

“There are a lot of details that still need to be worked out,” said Col. Lars N. Zedderstrom, the head of the Army Corps’ Galveston office, in his opening remarks.

It will take at least until 2021 to settle on a plan. After that, its fate will be in the hands of Congress, which is under no obligation to fund it.

Disclosure: The Texas General Land Office has been a financial supporter of The Texas Tribune, a nonprofit, nonpartisan news organization that is funded in part by donations from members, foundations and corporate sponsors. Financial supporters play no role in the Tribune's journalism. Find a complete list of them [here](#).

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State begins coast-wide effort to sustain fisheries hit by wetland erosion, restoration projects

Updated Dec 12, 6:18 PM;

Posted Dec 12, 6:17 PM



The shrimp boat Tiffani Claire passes another boat during the Blessing of the Fleet in Chauvin, Louisiana on Sunday, April 8, 2018. State officials are working with shrimpers and other commercial and recreational industry officials to find ways of making fishing sustainable along the state's coast in the future. (Photo by Chris Granger, NOLA.com | The Times-Picayune) (Chris Granger, NOLA.com | The Times-Picayune)



By Mark Schleifstein, NOLA.com | The Times-Picayune,

mschleifstein@nola.com

The Times-Picayune

State officials have embarked on a coast-wide effort to partner with the commercial and recreational fishing industry to find ways to make fishing more sustainable in the future, even as some state projects aimed at restoring coastal wetlands and land threaten fisheries and fishers.

Representatives of Louisiana Sea Grant, the state Department of Wildlife and Fisheries and the Coastal Protection and Restoration Authority told members of the authority's board on Wednesday (Dec. 12) that a joint fishing industry adaptation program begun earlier this year is aimed at listening to fishers and incorporating their ideas in any future adaptation plans.

The state already has created and met with small working groups of fishers involved with four major industry segments: shrimp, oysters, crabs and finfish, said Brian Lezina, a project manager with CPRA.

He said the groups are being asked to come up with issues that fishers are already facing today because of the rapidly-changing coastline, and those the industry will have to address in future decades, as continued coastal erosion and the effects of major restoration projects, such as sediment diversions, are built and implemented.



Lezina said state officials are focusing on what present fishers are and will face. But, he said the state also recognizes that many of the fishers most active in the marketplace today are in their 60s or older, and assuring that the state's fishery industry is sustainable also requires figuring out ways of enticing younger family members to enter what has become an endangered business.

"We want to make sure that we create access in the business for the younger generation, for the present fishermen's offspring," said Robert Twilley, director of Louisiana Sea Grant. "That's very important."

The state team hopes to be able to present an "adaptation toolbox" for a sustainable fishery industry to the CPRA board in July.

The toolbox will require strategies that are specific to the demographic needs of individual parts of the industry, regional differences, and gear-specific approaches to adaptation.



It also will have to encompass the entire supply chain management of the fishing industry, including where each link is based and where it must go to capture and process fish.

That's going to require a three-tier approach over the next few months, Twilley said:

- A first set of industry meetings that would be live-streamed and produced as podcasts to allow wide distribution.
- Hold three or four select regional meetings to fill in issues in major fishing hot spots, possibly including areas east and west of the Mississippi River, in the western Chenier Plain, and directed at community planning groups.
- Use annual Wildlife & Fisheries Dock Days scheduled around the state in March to allow fishers to view 20-minute presentations of the task force's findings.

State officials already have collected some key adaptation proposals for each of the fishery groups, said Patrick Banks with the Department of Wildlife and Fisheries.

- For the commercial finfish industry, suggestions include:
- Expansion of present gear options for catching fish.
- Expansion of species targeted by fishers, to help them make up revenue lost for fish that may no longer harvested in historic numbers.
- Identifying more productive areas where fishing can occur once additional erosion occurs and the diversions are operating, likely to be closer to the coast or in federal Gulf waters.



- Modifications to fishing vessels to increase their efficiency, reducing the cost of traveling farther to find fish.
- Access to what are now privately-leased water bottoms.
- And assistance in marketing to help increase the value of what is caught.

Similar proposals would be made for the charter-for-hire industry. However, some charter captains had also suggested reducing limits on fish allowed to be caught on a single trip or day, which would allow shorter trips, and thus multiple trips per day. They also suggested a moratorium on charter licenses to increase profitability.

The vessel modification proposal and access to private water bottoms were also recommended for the recreational finfish industry, along with changing the recreational culture to make it more acceptable to catch less fish per day or trip.

Similar proposals also targeted the shrimp industry, including fishing in more productive areas, including help in getting permits for federal waters offshore. Shrimp vessel



and gear modifications also were recommended, including improved refrigeration equipment to allow shrimp to be captured farther from processing facilities.

The shrimping proposals also included diversifying into other fisheries or other lines of work, and providing education for business plan development to assist in figuring out how to pay for capital improvements to vessels and gear. They also included improved marketing aimed at increasing shrimp prices to offset increased costs.

Crab industry adaptation measures also listed vessel modifications, including refrigeration and more efficient engines, and modifications to gear, including traps designed to capture “busters,” crabs on the verge of molting and becoming soft-shell.

The proposals also included more efforts to remove derelict crab traps from the water, developing a source of local bait fish, a moratorium on crab licenses, and figuring out ways to reduce natural crab predators, such as allowing a greater take of black and red drum.

For oysters, the major adaptation will be in identifying where future oyster lease areas can be located, as water salinity changes, especially after the completion of the sediment diversions.



Key issues that must be addressed involving oysters include lifting an existing moratorium on the issuance of new state water bottom leases, and figuring out how to turn some portions of existing public oyster grounds into leased areas.

Vessels also will need to be modified to be able to operate farther from home port, including refrigeration and efficient engines.

The proposals also include development of off-bottom oyster cultivation – using racks to hold oyster cultch on which oysters will grow in the proper salinity water.

The adaptation proposals also include reviewing ways to compensate existing oyster growers or mitigate the effects of the diversions on growers.

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EPA

Wheeler preaches federalism on water, not cars

Maxine Joselow, E&E News reporter

Published: Thursday, December 13, 2018



Mary Nichols is chairwoman of the California Air Resources Board. California Energy Commission/Twitter

When EPA announced its overhaul of a major water rule this week, it leaned heavily on the idea that it was promoting states' rights.

Critics say that's hypocritical.

They say that other actions by the Trump administration could reduce states' freedom to address climate change. Critics point to EPA's rollback of Obama-era clean car rules, which could undermine the ability of more than a dozen states to set tougher environmental protections than the federal government.

EPA on Tuesday unveiled a new definition for "Waters of the U.S.," or WOTUS, that would severely restrict the number of wetlands and waterways covered by the Clean Water Act ([Greenwire](#), Dec. 11).

In an [opinion piece](#) in *The Kansas City Star*, acting EPA Administrator Andrew Wheeler said the overhaul "gives power back to states."

"Our proposed new definition ... would end years of uncertainty over where federal jurisdiction begins and ends," Wheeler wrote. "For the first time, we are clearly delineating the difference between federally protected wetlands and state protected wetlands."

Wheeler's rhetoric harks back to the notion of "cooperative federalism" promoted by former EPA Administrator Scott Pruitt. It's the idea that state and federal regulators should work collaboratively without "one-size-fits-all" mandates from Washington, D.C.

But critics of the Trump EPA say Wheeler's message is hard to square with the agency's rollback of pollution rules for cars.

In August, EPA and the Department of Transportation proposed weakening the car rules through 2026. The agencies also threatened to revoke California's Clean Air Act waiver for greenhouse gases.

The waiver allows California to set more stringent vehicle emissions benchmarks than the federal government. Thirteen other states have adopted California's tougher standards, preventing significant amounts of carbon dioxide from entering the atmosphere through car tailpipes. Colorado is set to become the 14th state to adopt them ([Climatewire](#), Nov. 19).

Mary Nichols, chairwoman of the California Air Resources Board, told E&E News that EPA only seems to stand behind states' rights when it involves setting less aggressive climate change rules than the federal government.

"The Trump Administration sees the states' role in environmental protection as a one-way downhill slide: their anti-clean air and clean water agenda lets states do whatever they like to protect the health and welfare of their people as long as those standards are weaker than EPA's," Nichols said in an email to E&E News from Katowice, Poland, where she's attending the U.N. climate talks.

Sean Hecht, co-executive director of the Emmett Institute on Climate Change and the Environment at UCLA's School of Law, echoed that sentiment.

"I do think it is inconsistent for the administration to say in some contexts that states need to have more authority and to say in other contexts that states should be prohibited," Hecht said. "There is a lack of consistency there."

When Congress drafted bedrock environmental laws such as the Clean Water Act and the Clean Air Act, it intended the federal government to set a minimum level of regulation, he said. It also intended states to go beyond that threshold to address their unique environmental problems. For example, California was handed special waiver authority in the Clean Air Act so it could clean up its smoggy skies.

"Traditionally, the way federal environmental laws have been structured, there are many instances where states are free to be more protective of public health and the environment than the federal government is," Hecht said. "So it seems to me it was very clearly Congress' preference in the environmental laws to create a federal floor, and then in some cases to allow states to go further than that."

Still, Hecht cautioned that comparing WOTUS to the car rules is like comparing apples to oranges. They're different statutes with a variety of different issues at play, he said.

EPA's approach to federalism may be colored by the red-state, blue-state divide.

The states that follow California's tougher car rules are: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

With the exception of Pennsylvania, all of those states remain a reliable shade of blue, as evidenced by their backing of Democrat Hillary Clinton in the 2016 presidential election.

By contrast, the loudest complaints about WOTUS have come from Midwest and Plains states, which tend to be GOP strongholds.

When the Obama EPA rolled out WOTUS in 2015, farmers and ranchers in those states complained that the rule constituted federal overreach and complicated the process of obtaining permits on their property.

These grievances were summed up by Senate Environment and Public Works Chairman John Barrasso (R-Wyo.), who said Tuesday that the Obama-era plan "inserted Washington into local decisionmaking."

"This overreach put unfair restrictions on how farmers, ranchers and landowners could use their property," Barrasso said. "I am glad the new proposal addresses these issues."

Rep. Sam Graves (R-Mo.), the incoming ranking member on the House Transportation and Infrastructure Committee, similarly told E&E News yesterday that farmers in his district would welcome the Trump administration's revision of WOTUS.

"It was never about clean water; it was always about more government control," said Graves, whose district in northern Missouri overwhelmingly backed Trump in 2016.

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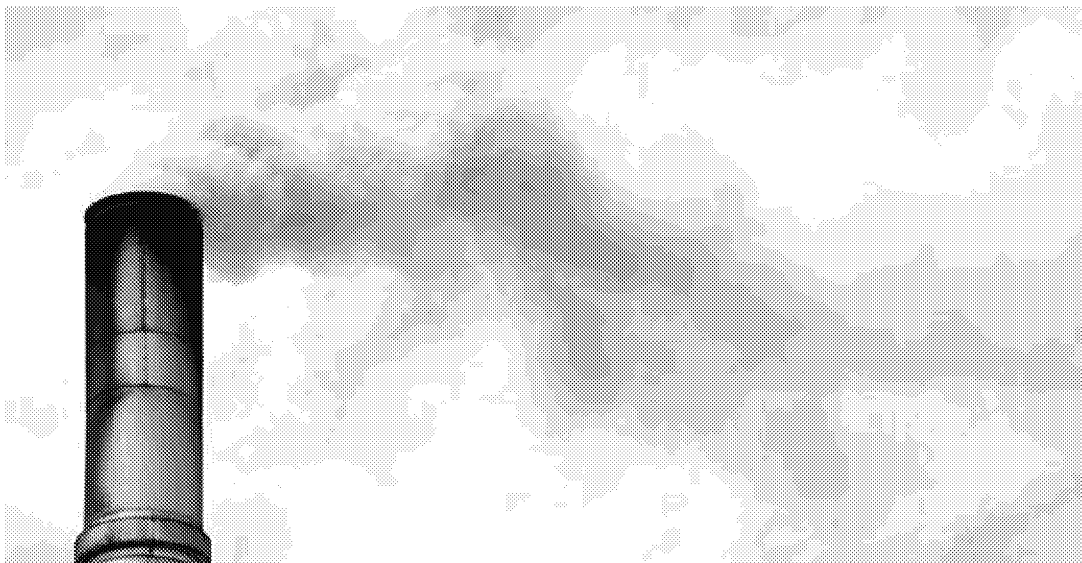
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AIR POLLUTION

EPA advisory panel gets earful at public hearing

Sean Reilly, E&E News reporter

Published: Wednesday, December 12, 2018



EPA's Clean Air Scientific Advisory Committee today began a two-day meeting on particulate matter standards. Ian Barbour/Flickr

An embattled EPA advisory committee held a public hearing in Washington today, with members getting two broad strains of feedback.

The first came from industry representatives who repeatedly questioned whether a draft EPA research roundup overstates the health risks posed by airborne particulates.

The second came mainly from scientists who charged the advisory panel lacks the breadth of know-how needed to review the adequacy of the existing particulate matter pollution standards.

"Today you should ask yourselves, 'Do we have the necessary expertise in all of those critical scientific disciplines to do this review,'" Chris Frey told the Clean Air Scientific Advisory Committee (CASAC). "And clearly the answer is no."

Frey, a North Carolina State University environmental engineering professor, was on an auxiliary scientific panel that was assisting in the review before acting EPA Administrator Andrew Wheeler summarily disbanded it two months ago. In a letter this week, Frey and 14 other former members urged that the panel be revived. They also called on the seven-member CASAC to reject the accelerated timetable imposed by EPA earlier this year that calls for the review's completion by late 2020.

If Frey was strikingly blunt, his concerns were echoed in varying degrees by about half of more than two dozen speakers at the session, the start of a two-day CASAC public meeting.

Without an adequate review, "the end result may be particulate matter standards that insufficiently protect the United States public, especially our most susceptible populations such as children and the elderly," said Fernando Garcia Menendez, another N.C. State professor, in reading a statement signed by more than 200 scientists and engineers.

By law, CASAC plays a central role in advising EPA during periodic reviews of the ambient air quality standards for particulate matter, ozone and four other "criteria" pollutants.

Wheeler replaced five members on the committee around the same time in October that he disbanded the auxiliary review panel. The bulk are now state and local regulators with little direct experience in air pollution research.



EPA's Clean Air Scientific Advisory Committee meeting today. Sean Reilly/E&E News

In a statement, EPA spokesman Michael Abboud said the new members "are highly qualified and have a diverse set of backgrounds in fields like toxicology, engineering, medicine, ecology, and atmospheric science." In a separate release, however, the agency left open the possibility that Wheeler could add consultants "to provide relevant expertise" if needed.

EPA last revised its particulate matter standards in 2012. The purpose of this week's meeting is to give CASAC a chance to review the draft research roundup — formally known as an integrated science assessment, or ISA — that

synthesizes the findings of some 2,700 studies on particulates' health and ecological effects.

Fine particulates are already linked to a variety of heart and lung problems including increased risk of premature death. The draft ISA also cites findings of nervous system effects, including "limited evidence" of a connection to Alzheimer's disease. The draft, also released two months ago, more generally cites evidence that EPA's existing particulate matter standards may not be strong enough to protect public health.

But industry advocates and consultants broadly challenged whether that evidence showed that particulate exposure was necessarily responsible for perceived health effects.

Association "is not causation," said Jia Coco Liu, an environmental epidemiologist speaking on behalf of the Electric Power Research Institute. "Characterizing the causal effect of PM on human health is critical for informing policymaking on ambient PM."

"The causal framework is not adequate," Ted Steichen, senior policy adviser for the American Petroleum Institute, said in a prepared statement.

The draft ISA also lacks a sufficiently detailed "protocol" showing how EPA decided which studies to include, as well as the agency's methods for evaluating study quality and other factors, Steichen said.

Following a lunch break, the CASAC meeting continued through the afternoon with a discussion of individual chapters of the ISA. It's scheduled to end tomorrow afternoon with a summary of "major findings and recommendations" on the draft assessment.

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LCRA changes tack in Bastrop County groundwater permit request

By **Brandon Mulder**

Posted at 3:56 AM

Updated at 3:56 AM

The controversy over Bastrop County groundwater pumping was at the center of discussions Wednesday morning between Lower Colorado River Authority executives and the Sunset Advisory Commission.

During those discussions — which advanced the commission’s lengthy review process of the LCRA — the river authority’s general manager Phil Wilson made a public commitment to dedicate the groundwater sought from a possible well field in Bastrop County to water users only within Bastrop, Lee and eastern Travis counties.

Wilson’s commitment, which was echoed in an ad that ran in the Austin American-Statesman on Wednesday, appears to be the first time the river authority has publicly made that declaration. The authority stated in its pumping applications submitted to the Lost Pines Groundwater Conservation District earlier this year that it would use the groundwater to supplement its water supply in its 14-county area as populations grow. During testimony given before the groundwater board in September, the LCRA’s Executive Vice President of Water John Hofmann said that the authority intended to use the water locally as well as export it via pipeline out of the groundwater district, which is composed of Bastrop and Lee counties.

But the LCRA’s position now seems to have ditched any interest in transporting water outside of the district’s boundaries. Hofmann said Wednesday afternoon that the authority notified the groundwater district on Nov. 29 that it would limit the transportation of that water to Bastrop, Lee and eastern Travis counties.

“LCRA has no intent to ship groundwater outside of our region when we need it here,” Hoffman said in an emailed statement.

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The sunset commission, which is composed of six senators and six representatives, heard from nearly a dozen landowners on Wednesday who criticized the LCRA for lacking transparency and urged the authority to abandon its groundwater request, which seeks 25,000 acre-feet, or 8.1 billion gallons of groundwater, per year from eight wells in Bastrop County. That amount of pumping, the landowners say, threatens to dry up their own wells, which are the primary and sole water source for many residents.

“No one knew where (LCRA) was going to sell this water until this morning’s advertisement in the Austin American-Statesman. I have read the application; I have heard the proposed permit — nowhere does it say where they are going to have that water. Only until today’s newspaper did they share with anyone where they were going to send that water,” said Bastrop County resident Andrew Wier, adding that his well is expected to go dry if the LCRA begins pumping at a rate allowed by the requested permits.

State Rep. Poncho Nevarez, D-Eagle Pass, questioned why the river authority would create self-imposed restrictions on where it could export water, saying that the authority would be “handcuffing” its ability to provide water to other thirsty communities in the future.

“This discussion that we’re having, it may have some ramifications that are a lot bigger than what we’re talking about today,” Nevarez said.

Wilson, however, maintained that the authority is willing to commit to that restriction “because it’s the right thing to do.”

Wednesday’s meeting comes just five weeks after Sunset Commission staff released a report that criticized the LCRA’s transparency in regards to the Bastrop County groundwater case.

“Despite growing water supply needs, LCRA has not developed a formal, proactive strategy for engaging communities in its activities, and its approach to public engagement is inconsistent and often reactive,” the staff report said.

The report found that while LCRA’s success as the region’s water supplier “hinges on its ability to improve public trust, its relationship with stakeholders “is still fraught with tension, and its public engagement strategies “should go beyond the minimum requirements.”

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After taking the staff report and public comments into account, the Sunset Advisory Commission will reconvene on Jan. 9 to vote on which operational changes it will recommend to the full Texas Legislature. The commission has no control over the fate of the LCRA's groundwater permits in Bastrop County.

Meanwhile, a preliminary hearing before an administrative judge of the State Office of Administrative Hearings is scheduled for Dec. 19 in Bastrop for the river authority's groundwater permit request. That meeting will kick off what will likely be months of hearings before the judges assigned to the case make decisions over the LCRA's requested pumping permits. Over 120 landowners and water utilities, including the city of Elgin and Aqua Water Supply Corp., have contested the permit request.

Lost Pines Groundwater Conservation District Director Jim Totten said that though his office has received the LCRA's offer to restrict groundwater transportation, the permit pending before the State Office of Administrative Hearings doesn't have that restriction included.

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Lawsuit targets USDA's waiver; it claims 'factory farms' given pass

by Nathan Owens | Today at 4:30 a.m.

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A group from Harrison is among the activists suing the U.S. Department of Agriculture over a 2016 exemption rule that allows "medium-sized" feedlots and poultry farms, which can hold tens of thousands of animals, to sidestep the risk analysis process required of "large" operations.

The rule, court documents show, exempts certain poultry, pork, beef and dairy operations that apply for taxpayer-subsidized loans or loan guarantees from the usual process of public notice, public comment and federal oversight and has allowed for the establishment of dozens of "factory farms."

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At least 100 medium concentrated animal feeding operations were approved for Arkansas from 2016 to 2017, according to USDA records cited in the complaint. The complaint was filed in U.S. District Court for the District of Columbia on Dec. 5. The defendants include the USDA and its Farm Service Agency, Secretary of Agriculture Sonny Perdue and Administrator Richard Fordyce.

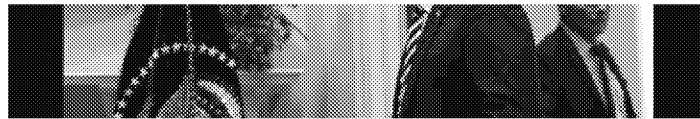
The plaintiffs -- eight U.S. agricultural and environmental advocacy groups -- allege that the Agriculture Department developed a rule "categorically excluding [Farm Service Agency] funding of medium-sized

concentrated animal feeding operations from National Environmental Policy Act review."

Among the plaintiffs is the group White River Waterkeeper, a Harrison nonprofit that advocates for the northern Arkansas river and its watershed, informs the public of environmental issues and the effects of new feeding operations in the region, including the C&H hog farm in Newton County.

They argue the 2016 exemption for medium operations harms rural communities, affecting their land, water and air quality without federal regulation and oversight.

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The exemption effectively eliminated environmental rules that safeguard rural communities for the benefit of large food companies, said Tara Heinzen, a staff attorney at Food and Water Watch, one of the listed plaintiffs.

Before 2016, the USDA's Farm Service Agency performed environmental analyses under an EPA act to assess the impact of government loans or loan guarantees on concentrated farm operations, before the loans or guarantees were approved. The farm agency would weigh the "negative externalities" of the operations on nearby communities and then notify neighbors, farmers and other interested parties of the planned facility or expansion and the risks involved, so they could raise concerns "before the federal government disbursed funds," the complaint said. Risk assessments were conducted if an operation held at least 50,000 chickens, 27,500 turkeys, 1,250 pigs, 500 cattle or 350 dairy cows.

Under the current rule, medium concentrated animal feeding operations are exempt from the rule-making procedure, fast-tracking them for approval of federal loans or loan guarantees. The plaintiffs claim the Agriculture Department is in violation of federal clean air and water acts by allowing the rule's exemption to stand.

Proponents argue the rule makes it easier for farmers to secure funding. Critics say the rule keeps residents in the dark until construction is underway. The plaintiffs contend that through the current rule

the Farm Service Agency "now assumes these facilities have no environmental impact and exempts them entirely from analysis under [the National Environmental Policy Act]"

The difference between "large" and "medium" operations can be slim. According to government documents, medium operations can hold up to 124,999 chickens, 54,999 turkeys, 2,499 pigs, 999 cattle or 699 dairy cows. They are considered "large," and must undergo public scrutiny, if the operations exceed those limits by a single animal.

Under the Freedom of Information Act, the plaintiffs' attorneys requested USDA documents and found the medium operations that received loans through the 2016 rule exemption were clustered near processing plants. At least 100 were approved for Arkansas between Aug. 3, 2016 and December 2017 without undergoing the same processes required of "large" feeding operations, court records show. Specifically, the Farm Service Agency funded for the period six medium feeding operations in Benton County, nine in Washington County, seven in Madison County and three in Carroll County, the complaint said. Arkansas is one of the leading poultry producers in the nation with contract growers and processing plants clustered in the northwest corner of the state, where Simmons Foods, George's Inc. and Tyson Foods have headquarters.

Casey Dunigan, a resource conservationist for the Washington County Conservation District, a group that requires poultry farmers to create a waste-management plan for their operations, said the plaintiffs are likely trying to "put pressure on the [Farm Service Agency] to stop putting out loans."

Poultry loan guarantees funded through the Small Business Administration also have come under scrutiny this year. In a March report, the administration's inspector general viewed the business relationship between the contract grower and integrator as "affiliative," questioning whether poultry growers qualify for federal assistance.

Dunigan said the complaint's colorful definition of a traditional farm is wrong and misleading, but the rule's exemption likely has an influence in the number of medium feeding operations being approved. Farmers consider the necessary hurdles before deciding what operation they want to build or signing up for a loan, he said.

"But I'd rather have a bunch of mediums than large ones, personally."

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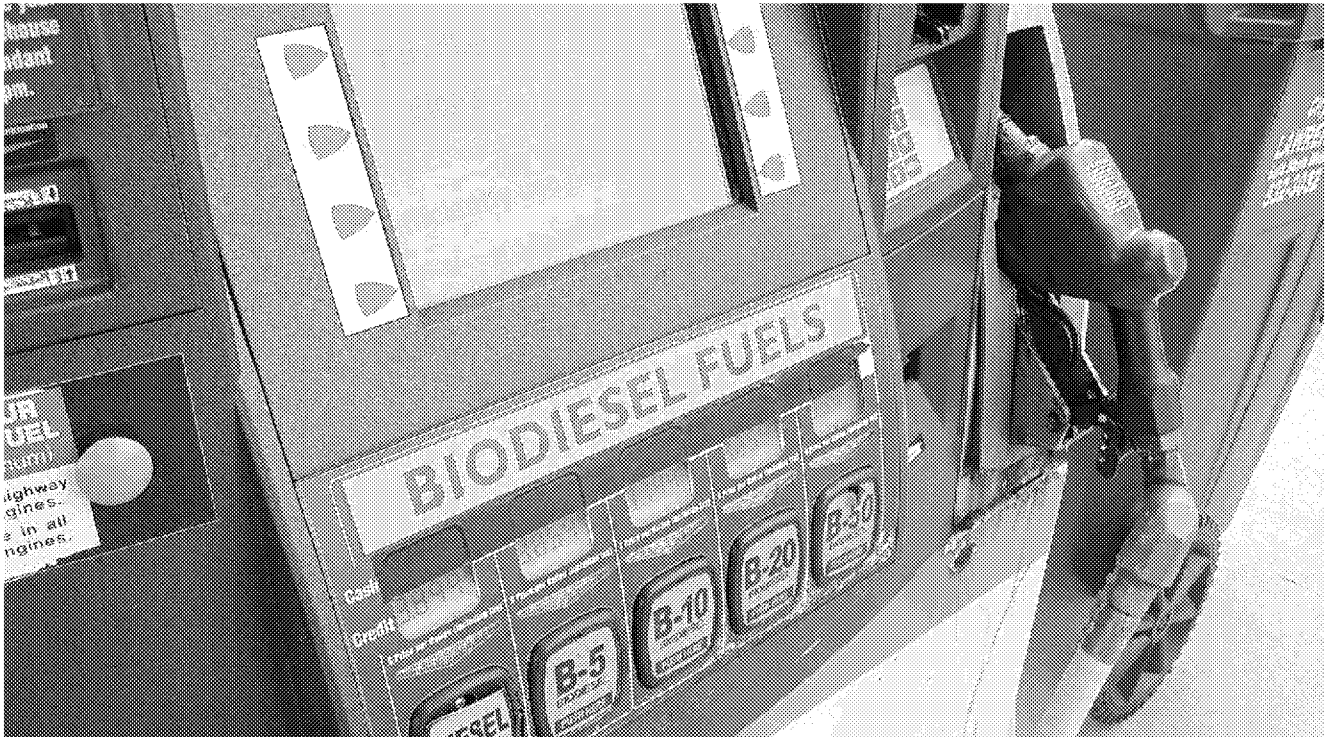
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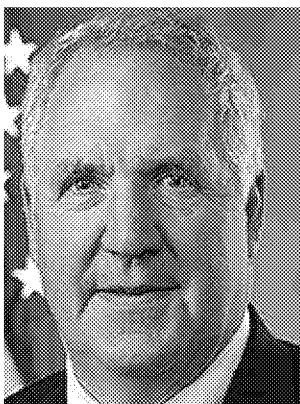
December 12, 2018 9:45 AM, EST

House Panel Examines Draft Legislation for Ethanol Mandates



United Soybean Board

WASHINGTON — With the current session of Congress quickly coming to a close, the top policymaker on environmental issues in the U.S. House made sure new draft legislation on ethanol mandates he co-authored would see the light of day.



Shimkus

In hosting a stakeholder hearing on Dec. 11 about the 21st Century Transportation Fuels Act draft proposal, House Environment Subcommittee Chairman John Shimkus (R-Ill.) sought to outline the Republicans' position before the new Congress debates the policy next year.

Specifically, his ambitious proposal, co-authored by Rep. Bill Flores (R-Texas), would aim to update requirements in the Renewable Fuel Standard, and it would seek to improve interoperability between the Environmental Protection Agency and U.S. Department of Transportation on vehicle efficiency programs.

The timing of the expansive proposal makes it highly unlikely the current lame-duck Congress will consider it before adjourning at the end of the month. When Congress convenes in January, House Democrats, not Republicans, will manage the committees, as well as legislation before the floor of the chamber.

Additionally, the proposal also would direct the EPA administrator to grant a waiver to fuels containing an ethanol concentration between 15% and 20%, and it would carve a path toward higher-octane fuels for light-duty vehicles. Republicans in the subcommittee argued in background about the proposal that high-octane fuels could be economical and technologically feasible for producers and the fuel suppliers.



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RECAP: #SubEnvironment examines the 21st Century
Transportation Fuels Act >>

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4:11 PM - Dec 11, 2018

#SubEnvironment Examines 21st Century Transportation F...

WHAT: The Subcommittee on Environment, chaired by Rep. John Shimkus (R-IL), held a hearing today examining the 21st Century
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“The need for this type of comprehensive reform is timely. Stakeholders on all sides of this debate have been whipsawed for months by rumored and actual administrative actions,” Shimkus explained.

Subcommittee ranking member Rep. Paul Tonko (D-N.Y.), however, noted the hurdles the proposal would face, questioning the Trump administration’s commitment to environmental safeguards related to fuel efficiency. The top Democrat also said he was disappointed that provisions about electric vehicles (EVs) were not included.

“If we are going to do a major overhaul of federal fuel and vehicle programs, we must look at how to further promote EVs as well,” Tonko said, adding, “For the time being, while liquid fuels continue to be the predominant energy source in transportation, these fuels should be as clean, and used as efficiently, as possible.”

Democratic aides familiar with the policy indicated freight transportation could be incorporated in a plan similar to the GOP draft.

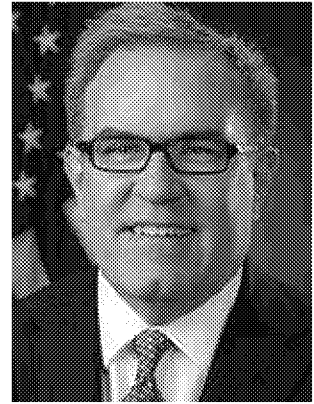
Stakeholders appearing before the panel welcomed the discussion draft's overall aim, but took issue with specific provisions. Wesley Spurlock, chairman of the National Corn Growers Association, argued certain requirements could potentially lead to economic burdens for parts of the agriculture sector.

"This discussion draft would undo successful renewable fuel policy that has had a large positive impact on rural communities," Spurlock said. "At a time when farm income has declined more than 50% over the past five years and farmers continue to face market challenges from trade disruptions, we can't afford more uncertainty."

David Fialkov, vice president of government relations with Natso, the national association representing the travel plaza and truck stop industry, said liability provisions in the proposal's misfueling prevention requirements were problematic.

"Without such protection, retailers will inevitably be reluctant to invest in new fuels and this will disrupt the legislation's objective of facilitating a smooth transition to higher octane fuels," Fialkov emphasized.

In November, EPA finalized a rule setting blending requirements for renewable fuels. The agency also announced it had commenced an environmental review aimed at reducing nitrogen oxide emissions from heavy-duty truck engines. Senior agency officials labeled the effort the Cleaner Trucks Initiative. Further details about the plan are expected.



Wheeler

Meanwhile, President Donald Trump announced recently he plans to nominate Andrew Wheeler for the EPA administrator role. Wheeler is EPA's acting administrator.

SNOW

'Our winters are getting sick'

Chelsea Harvey, E&E News reporter • Published: Thursday, December 13, 2018



Higher temperatures are causing declines in snowpack over the United States. NASA/Twitter

Snowpack in the western United States has declined by an area the size of South Carolina.

Those are the newest findings in a long string of research documenting dramatic snow losses and shorter snow seasons in America's iconic mountain ranges.

That's bad news for the local hydrology in many places — melting snowpack is a major source of fresh water in many ecosystems throughout the West and helps feed rivers that provide drinking water for human communities.

That's not the only problem. Changes in Western snow patterns may also be worsening wildfires in already vulnerable arid states.

Multiple new studies, presented at a major scientific conference in Washington, D.C., this week, underscore those rising risks. The new snowpack [paper](#), published in the journal *Geophysical Research Letters*, provides some of the sharpest measurements yet across the continental United States, going back to 1982.

It finds that changes in the Eastern states have been relatively minor so far. But the West has seen dramatic declines. About 13 percent of all the snowy areas in those states have lost large masses of snow — declining by 41 percent on average — over the last few decades. The findings were presented yesterday at the fall meeting of the American Geophysical Union.

Other recent studies have come to similar conclusions.

In March, a separate [study](#) found that about a third of all monitoring sites across the Western states had seen significant declines in snowpack since the 1950s, 15 to 30 percent on average. Modeling studies have also projected that these declines are likely to continue — and potentially worsen — as the climate warms.

The authors of the new study also found that the snow season has been growing shorter across the country. Since the 1980s, it has shrunk by an average of 34 days across nearly 10 percent of the nation. In the West, that's largely because spring is starting earlier each year, and in the East, it's because the summer is lasting later, according to lead author Xubin Zeng of the University of Arizona.

A separate study, also published this week in the *Journal of Applied Meteorology and Climatology*, confirms the pattern. Analyzing data collected across the Western states since the 1980s, researchers found that snow season is "being squeezed on both sides," according to study co-author Amato Evan of the Scripps Institution of Oceanography. Overall, there's less snow, and it's melting earlier.

"I would make the argument that our winters are getting sick, and we know the reason why — it's global warming; it's rising temperatures," Evan said in a presentation of his findings yesterday morning. "And that's

the only logical explanation for what's happening."

Some of the biggest environmental challenges currently facing Western states involve tighter water resources and an increase in wildfires, which many scientists argue are influenced by the changing climate.

Scientists have suggested that a shrinking snow season may lead to drier landscapes and worsening fire seasons. And recent research is confirming the link.

New findings, also presented this week at the AGU meeting, have compared the timing of the annual snowmelt across the West — which generally kicks off with the beginning of spring — and the severity of local fire seasons. The research found a strong connection, although the relationship wasn't exactly the same everywhere.

In some places, where vegetation tends to be sparse and patchy, a strong snow season — or at least a later snowmelt — can actually increase the risk of wildfires. That's because melting water encourages plant growth, which provides more fuel for wildfires to burn in places where the vegetation is often limited.

In other places, early snowmelt appears to be a big driver of wildfires, including sensitive regions like the Sierra Nevada in California, where snowpack has suffered major declines. Early melts can cause the landscape to dry out faster as the warm season goes on, increasing the likelihood of a blaze.

The research is some of the first to demonstrate a link between satellite-based measurements of snowmelt and wildfires in the Western states, according to co-author Donal O'Leary of the University of Maryland, who presented the findings yesterday.

Under the influence of continued warming, that means events like this year's devastating Camp Fire in California may become a greater risk in the future. Scientists note that the current trends — declining snowpack and shrinking snow seasons — will only grow worse as temperatures continue to rise. The measurements from the past few decades are evidence of climate change already in action.

"Our results are, in a sense, saying that what people are suggesting we should be seeing over the 21st century is in effect already happening," Evan said.

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